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REVIEW OF THE IMPLEMENTATION, MAINTENANCE, IMPROVEMENT AND UTILIZATION OF THE GENERALIZED SYSTEM OF PREFERENCES, RULES OF ORIGIN AND TECHNICAL ASSISTANCE

Report of the Second Ad Hoc Expert Group on the Generalized System of Preferences (15-16 May 1995)

submitted to the Officer-in-Charge of UNCTAD

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PART I: PROCEEDINGS

1. The Ad Hoc Expert Group on the Generalized System of Preferences was convened by the Secretary-General of UNCTAD in pursuance of the request made by the Special Committee on Preferences at its twentieth session to start preparations for theG3 1995 Policy Review on GSP and "to prepare in-depth analytical studies on the possibilities for improving the functioning and enhancing the impact of the GSP in the light of the evolution of the international economic and political environment".[1] In preparing these studies, the Secretary-General was invited to consider "the advice of senior GSP experts, eminent personalities in international economics and international trade, academics or representatives of the business communities, from both developed and developing countries".[2]

2. The first meeting of the Ad Hoc Expert Group took place on 24 and 25 February 1994. It examined the GSP issues on the basis of the draft documentation prepared by the secretariat to be submitted to the twenty-first session of the Special Committee on Preferences[3] and submitted a report on its deliberations to the Secretary-General of UNCTAD.[4] The report was subsequently submitted to the twenty-first session of the Special Committee on Preferences, which requested the secretariat to prepare complementary studies and reviews in the light of the Chairman's summary.[5]

3. The Second Ad Hoc Expert Group was held on 15 and 16 May 1995 in order to follow up on the first meeting and to have a more detailed discussion of the subjects addressed. It had before it the following draft documentation prepared by the secretariat and UNCTAD consultants to be submitted to the twenty-second session of the Special Committee on Preferences: (i) Study on harmonization, simplification and improvement of the rules of origin: Options and proposals for harmonization, simplification and improvement of the rules of origin (TD/B/SCP/AC.1/2); and Summary of replies received from preference-giving and preference-receiving countries to the questionnaire prepared by the UNCTAD secretariat (TD/B/SCP/AC.1/2/Add.1); (ii) Draft study on criteria for graduation under the generalized system of preferences; (iii) Resumé of UNCTAD study on the impact of the erosion of the preferential margin resulting from the Uruguay Round tariff reductions on the trade of developing countries; (iv) Resumé of study on possible extension of the GSP concept to new areas, in particular, services and investment; and, (v) The Least Developed Countries 1995 Report, Part B - the Generalized System of Preferences and LDCs.

4. The list of experts, who participated in their personal capacities, is contained in the annex.

PART II: CONCLUSIONS AND RECOMMENDATIONS

5. At its closing meeting, on 16 May 1995, the second Ad Hoc Expert Group agreed on the following conclusions and recommendations:

Objectives

6. The experts discussed the objectives of the GSP, namely to increase export earnings, to promote industrialization and to accelerate economic growth, and whether they remained fully valid in the light of the developments which had taken place over the years in world trade and related political realities. Some experts felt that the objectives remained valid but should be strengthened within the actual GSP framework by an expansion of product coverage and deeper tariff cuts. Other experts said that, in order to revitalize the GSP, the concept underlying the present objectives of the system should be expanded to include other development objectives such as social and environmental concerns. The latter aspects could eventually develop a second generation of GSP schemes with possible expansion of product coverage and additional preferences. Some experts questioned the appropriateness of such other development objectives given the autonomous nature of the schemes and said any new objectives should be multilaterally agreed.

Product coverage

7. There was broad consensus that an expansion of product coverage should be considered for the revitalization of the GSP, due to the fact that only a quarter of all dutiable exports benefited from the GSP.[6] One expert emphasized that since eligible product exports under future GSP schemes would be affected by various trade remedy measures, such as safeguards, graduation and special safeguards for agriculture, and the average level of MFN rates would be gradually reduced by staging, there should be no major obstacles to having a broadened product coverage.

Graduation

8. The experts noted the background study "Criteria for graduation under the GSP" which provided a framework for discussion together with suggested criteria for graduation.

(a) <u>The concept of graduation</u>

9. The concept of graduation in the context of GSP is to provide for the withdrawal of GSP treatment when it is no longer warranted. Graduation should be based on objective criteria related to the multilaterally agreed objectives of the GSP. Graduation measures should be independent from safeguard measures.

10. The rationale for graduation includes: (i) to provide incentives for the transfer of GSP benefits from more advanced to less advanced beneficiary countries; and (ii) to facilitate the improvement of GSP schemes for the remaining beneficiary countries.

11. There was agreement that there existed two basic graduation concepts: partial graduation and full graduation. However, there were differing views on each of these concepts. Some experts felt that only full graduation was appropriate; others that only partial graduation was appropriate; still others said that the two concepts were complementary.

12. There was agreement that graduation, when warranted, was a reflection that the beneficiary subject to graduation was successful. However, there were several views about what success meant in the light of the objectives of the GSP. Partial graduation was sometimes referred to as product-country graduation and sometimes referred to as sector-country graduation. One expert stressed that partial graduation should reflect the successful industrial development in one or more sectors in the beneficiary country, the exports of which are competitive in international markets. In this case, partial graduation would eliminate GSP treatment for all products in that sector. Some other experts felt that partial graduation could be justified for more narrowly defined products provided that graduation reflected the successful exportation of the product vis-à-vis all other suppliers, including non-beneficiary countries.

13. There was general agreement that graduation must be based on objective criteria. Some experts felt that the appropriate criteria might depend upon specific conditions in the individual preference-giving countries. Some experts felt the criteria should be limited to trade-related indicators while others felt the criteria should be broadened to include more general development indicators. All experts agreed that there should be no "conditionality", or element requiring reciprocal action, associated with graduation criteria, either for partial graduation or for full graduation.

14. Graduation can be phased in by eliminating GSP treatment on products competitively exported by particular beneficiary countries. A second graduation concept would be to fully withdraw GSP treatment on all products exported by a particular beneficiary country. In the first concept, the beneficiary subject to graduation continues to enjoy GSP treatment on other products or other sectors. In this connection, an expert said that so-called graduation related to competitive exports of individual products is not a proper graduation mechanism as it can only be based on trade criteria and not on development criteria and consequently is more a safeguard type mechanism. In the second concept, the beneficiary subject to graduation no longer enjoys GSP treatment on any product exported to the preference-giving country.

15. A number of experts proposed that the more advanced developing countries should consider becoming preference-giving countries to benefit the less advanced beneficiary countries. One expert said that consideration of the subject was premature and pointed to the existence of the global system of trade preferences among developing countries (GSTP).

(b) Principle of neutrality

16. Graduation should not have a significant adverse effect on exports from a graduated beneficiary country.

17. Graduation should not reduce the total volume of GSP benefits. Empirical evidence has revealed that prior graduation has resulted in very little benefit for the remaining beneficiary countries. Since graduation will reduce GSP benefits enjoyed by the beneficiary subject to graduation, GSP benefits enjoyed by the remaining beneficiary countries, effectively using these new opportunities, should be increased by an offsetting amount.[7]

(c) Operational aspects

18. Graduation, when introduced, should include a grace period or phase-in period, as appropriate. Uncertainty should be avoided to the greatest extent possible. Graduation measures should not result in a product being eliminated from GSP for one year, to be restored the next, to be eliminated the next, etc. Graduation should be based on multi-year criteria.

Erosion

19. The experts welcomed the MFN tariff reductions deriving from the successful conclusion of the Uruguay Round and took note of the preliminary estimates by the UNCTAD secretariat of the erosion of the preferential margin resulting from these reductions. They agreed that erosion of tariff preferences resulting from these overall MFN tariff reductions is not in itself a negative phenomenon.

20. Several proposals were made to mitigate this adverse effect, including the reduction of GSP tariffs, expansion of product coverage and improvement of the mechanism of the system. Of these, it was felt that one of the best ways would be to expand product coverage.

21. As the secretariat's study on erosion was at a preliminary stage, it was suggested that the study be continued and, where possible, focus on the following elements:

- estimates of the average level of GSP rates;
- identification of major export sectors where the preferential margin becomes zero;
- the impact of erosion by region;
- identification of non-GSP covered products (by product category) which are of export interest to developing countries; and,

- estimates of the possible trade effects resulting from the Uruguay Round tariff concessions on trade flows of developing countries.

Special measures in favour of least developed countries

22. There was general consensus that special measures for LDCs should be strengthened in the light of the Uruguay Round results. To this end, the Group reaffirmed the recommendation made at its first meeting, namely full product coverage, full duty-free GSP rates, and exemption from safeguards and from graduation measures.

Possible extension of the GSP concept to new areas, in particular, services and investment

23. The Group discussed the study on new areas currently being prepared by UNCTAD consultants. The main points are summarized below:

(a) Services

24. The General Agreement on Trade in Services sets out principles to govern trade in this area, extending the MFN principle to trade in services. It is important that specific areas be identified in which it would be feasible to consider measures equivalent to the GSP to increase demand for service exports from developing countries arising from the possible extension of the GSP concept to services. This will involve: (i) identification of sectors in which developing countries have a comparative advantage; (ii) identification of policies in developed countries which regulate the importation of services in these sectors; (iii) identification of means by which these policies might be adjusted in order to promote consumption of services produced by developing countries. There was some disagreement as to which sectors were the most likely candidates for such an analysis, especially in the area of labour services. The study will attempt to provide a comprehensive list of sectors in which policy adjustment might feasibly be considered.

(b) Investment

25. Two issues arose:

(i) It may be possible to identify adjustments to the existing policy regime by which the authorities of a developed country might stimulate investment in developing countries. However, questions were raised as to whether such adjustments would fall into the category of GSP, even if this term were extended to cover trade measures other than tariffs and quotas.

(ii) Some developing countries have introduced measures to subsidize foreign investment in the domestic economy, or to extract greater domestic benefit from such investment (for example, some types of TRIMS). To the extent that the TRIMS Agreement restricts such measures, preferential treatment to developing countries would mean allowing them to retain investment promotion measures and TRIMS. However, questions were raised as to whether such preferences would be welfare-improving. Furthermore, those preferences would not be a GSP-like preference but would have to be set in terms of special and differential treatment within TRIMS.

Rules of origin

26. The experts supported, in principle, the proposals put forward by the secretariat in TD/B/SCP/AC.1/2, including the suggestion that the work of the World Customs Organization (WCO) Technical Committee might be taken into account when developing a harmonized set of GSP rules of origin. The experts recommended that this issue be further dealt with at the Intergovernmental Group of Experts on Rules of Origin to be held in Geneva from 19 to 21 July 1995.

27. It was felt that an application of a single set of rules would be desirable vis-à-vis both non-preferential and preferential trade as it would be beneficial for GSP users, certifying authorities and customs authorities in preference-giving countries. However, owing to the different objectives for the harmonization of non-preferential rules of origin as compared to GSP rules of origin, some experts pointed out that the UNCTAD secretariat should continue its work on rules of origin; the work on GSP rules of origin should be linked to the GSP objectives and not constrained by considerations dealt with in other contexts or frameworks.

28. There was a consensus that the erosion of the preferential margin following the conclusion of the Uruguay Round called for simplification and improvement of the GSP rules of origin if the economic significance of the system was to be assured. The linkages between graduation and cumulation were also discussed. It was felt that country graduation measures which were or might be applied in the context of cumulative origin might undermine the efforts of preference-receiving countries to globalize their sourcing of inputs in manufacturing GSP-eligible products.

29. Improvement and simplification of GSP rules of origin could be made by simplifying rules on administrative procedures, such as GSP Form A and the direct consignment rules. Some experts emphasized the importance of administrative cooperation based on mutual confidence between certifying authorities in beneficiary countries and customs authorities in preference-giving countries on certification and verification.

Technical assistance

30. There was consensus that the GSP technical cooperation programme was useful and should be continued. The experts were satisfied that the programme had implemented the actions recommended by the first Ad Hoc Expert Group Meeting, such as cost-sharing and emphasis on rules of origin and trade laws. In order to further improve the activities, the Group recommended that:

(a) the programme should revise as a matter of priority the present handbooks on individual GSP schemes and other trade laws to reflect changes resulting from the implementation of the Uruguay Round Agreements;

(b) in carrying out its activities, the programme should put more emphasis on national seminars/workshops which provided a better opportunity for direct contacts with actual and potential GSP users; and

(c) the programme should consider other possibilities of providing technical assistance such as South-South cooperation or a technical cooperation among developing countries (TCDC) element, and use of trade points to disseminate GSP information.

Notes

1. Report of the Special Committee on Preferences on its twentieth session (TD/B/40(1)/10), annex I, para.1.

2. Ibid., para. 2.

3. Documents considered by the Ad Hoc Expert Group Meeting were:

- Seventeenth general report on the implementation of the generalized system of preferences: recent changes and policy issues (TD/B/SCP/6);

- Technical assistance in connection with the GSP - Technical cooperation activities on the GSP and other trade laws, 1993 (TD/B/SCP/7);

- Consultation on harmonization and improvement in the rules of origin - review of past discussions: recent developments; possible ways forward (TD/B/SCP/8);

- Possible improvements of the generalized system of preferences (UNCTAD/ITD/8).

4. Report of the Ad Hoc Expert Group on the Generalized System of Preferences (TD/B/SCP/9).

5. See the report of the Special Committee on Preferences on its twenty-first session (TD/B/SCP/10), annex I.

6. See the seventeenth general report on the implementation of the generalized system of preferences (TD/B/SCP/6), annex I.

7. An expert suggested that the amount of GSP benefits be measured as the tariff revenue forgone by the preference-giving countries on imports receiving GSP treatment.

Annex

List of participating experts

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- Dr. T. Murray, Distinguished Professor
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- Mr. M. Nampa, First Secretary
  Permanent Mission of Japan
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- Mr. P. Nell, Head
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